

New Housing Construction Exemption ordinance

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Tue 2/22/22 12:58 PM

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 1 attachments (107 KB)

Rent Ordinance - New Construction Exemption 2-22-22.pdf;

Council President Brendmoen,

As indicated during his State of Our City Address today, the Mayor is pleased to provide you with the attached ordinance draft to exempt new housing construction from the rent stabilization ordinance for introduction onto the City Council agenda for immediate consideration. The Mayor will sign it as soon as the Council is ready to take action.

Along with this draft, I am copying my colleague, Ian Welsh, from the City Attorney's Office. While I've previously discussed the matter of exempting new housing related to the rent stabilization ordinance with you, we are both available to meet at your earliest convenience to discuss any questions about this specific language you may have.

We look forward to hearing from you.

Thank you,
Melanie

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SAINT PAUL
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..Title

Amending Chapter 193A of the Legislative Code (Title XIX) limiting rent increases on newly constructed residential rental properties.

..Body

SECTION 1

WHEREAS, Saint Paul City Charter Section 8.01 states that “[t]he people shall have the right to propose ordinances ... by [a process] known ... as initiative”; and

WHEREAS, a petition seeking such an initiative to adopt Chapter 193A of the Saint Paul Legislative Code, which is a Rent Stabilization ordinance, was filed with the Office of the City Clerk on June 22, 2021 (the “Petition”); and

WHEREAS, the City Council found that the petition was sufficient to satisfy the minimum signature requirements under the City Charter; and

WHEREAS, the ballot initiative was thereby placed on the ballot for the City General Election held November 2, 2021; and

WHEREAS, after the City General Election, the Council of the City of Saint Paul, together with its City Clerk, determined that a majority of those voting on the ballot question voted in its favor; and

WHEREAS, in light of the City General Election results, and pursuant to Section 8.04 of the City Charter, the rent stabilization ordinance became effective immediately; and

WHEREAS, according to census and forecast data published by the Metropolitan Council, the population in Saint Paul is since the year 2000 is outpacing the increase in new housing; and

WHEREAS, according to the Metropolitan Council Affordable Housing Production Survey, only 370 out of 2,073 new housing units in 2020 are affordable housing units; and

WHEREAS, according to American Community Survey data from 2015-2019, 36.8% of Saint Paul residents live below 185% of the federal poverty level; and

WHEREAS, prior to adoption, city partners expressed that passage of rent stabilization could increase the future financial risk on loans for executed redevelopment agreements which, in turn, could lead to developers pulling out of existing executed redevelopment agreements; and

WHEREAS, the development of new affordable housing in the City depends, in part, on Tax-Increment Financing (TIF) produced by the development of new market rate housing in general; and

WHEREAS, a decrease in development of new housing will decrease the availability of TIF and thus decrease the development of new affordable housing; and

WHEREAS, city partners have forecasted a loss of capital investment, relocation of developers and builders to more predictable locations and asset types, negative impacts on housing supply, and long term increases to housing costs due to the rent stabilization ordinance; and

WHEREAS, a local bank has reported that a Naturally Occurring Affordable Housing development will not proceed because of passage of the rent stabilization ordinance, which reportedly caused a reduction in value of approximately \$1.1 million to the development; and

WHEREAS, a large non-profit affordable housing developer has reported over 500 affordable housing units will not be constructed as they are predicated on TIF funding from market rate projects which are indefinitely on hold due to the limitations of the current rent stabilization ordinance; and

WHEREAS, rent stabilization ordinances across the country include exemptions for new construction, including ordinances in effect in Berkeley, Oakland, and others; and

WHEREAS, the purpose of new construction exemptions in other jurisdictions is to address challenges similar to those faced by the City of Saint Paul, specifically housing shortages and accessibility to affordable housing; and

WHEREAS, the text of the rent stabilization ordinance finds that “that the welfare of all persons who live, work, or own Property in the City of Saint Paul depends in part ensuring that Saint Paul residents have access to affordable housing”; and

WHEREAS, consistent with the rent stabilization ordinance’s stated goal of ensuring access to affordable housing, the City Council finds it necessary and reasonable to amend the Chapter to exempt new construction; and

WHEREAS, exempting new construction will help to ensure that city partners can continue to construct new affordable housing units in the City of Saint Paul; now, therefore,

The City of Saint Paul does hereby Ordain:

SECTION 2

Sec 193A.01 Findings In order to retain or find adequate rental housing, many residents of the City of Saint Paul pay a substantial amount of their monthly income for Rent; that the present shortage of residential Rental Units and the prevailing Rent levels have a detrimental effect on the health, safety, and welfare of a substantial number of Saint Paul residents, particularly persons in low and moderate income households, and persons on fixed incomes who reside in the City; that residential Tenants constitute over 50% of the residents in Saint Paul; that residential Tenants suffer great and serious hardship when forced to move from their homes; that the community is impacted by housing instability when rent increases outpace incomes; and that the welfare of all persons who live, work, or own Property in the City of Saint Paul depends in part ensuring that Saint Paul residents have access to affordable housing.

Sec 193A.02 Authority Pursuant to Minn. Stat. § 471.9996 sub.2, the City of Saint Paul shall establish a policy limiting rent increases on residential rental properties as approved in a general election.

Sec 193A.03 Limitation on rent increases. No landlord shall demand, charge, or accept from a tenant a rent increase within a 12 month period that is in excess of 3% of the existing monthly rent for any residential rental property except as otherwise allowed under section 193A.05 or 193A.06.

Sec. 193A.04 Vacancy Limitation on the amount of annual rent increase shall apply regardless of change of occupancy in a residential rental unit except as otherwise allowed under section 193A.05 or 193A.06.

Sec 193A.05 Reasonable Return on Investment.

(a) The city shall establish a process by which landlords can request exceptions to the limitation on rent increases based on the right to a reasonable return on investment. Rationale for deviations from the limitation on rent increases must consider the following factors:

- (1) Increases or decreases in property taxes
- (2) Unavoidable increases or any decreases in maintenance and operating expenses
- (3) The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement
- (4) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings; equipment, or other housing services provided, or occupancy rules
- (5) Substantial deterioration of the rental unit other than as a result of normal wear and tear
- (6) Failure on the part of the Landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement
- (7) The pattern of recent rent increases or decreases

(b) It is the intent of this chapter that exception to limitation on rent increases be made only when the Landlord demonstrates that such adjustments are necessary to provide the landlord with a fair return on investment.

(c) The city will not grant an exception to the limitation on rent increases for any unit where the landlord has failed to bring the rental unit into compliance with the implied warranty of habitability.

Sec. 193A.06 Exceptions

For the purposes of this Section 193A.06, the following terms have the following meanings:

Building Certificate of Occupancy means the certificate of occupancy issued under the Minnesota State Building Code, including temporary certificates of occupancy.

Newly Constructed means that the Residential Rental Property was built from the ground up and was not classified for occupancy under the Minnesota State Building Code or Minnesota Residential Code prior to issuance of the first Building Certificate of Occupancy.

Non-residential means any Property or portion of Property that has an occupancy classification other than residential under the Minnesota State Building Code or Minnesota Residential Code.

Property or Properties have the same meanings as the terms “building(s)” or “structure(s)” as defined in the Minnesota State Building Code and Minnesota Residential Building Code.

Residential Rental Property means a Property or a portion of a Property that is classified for occupancy as residential under the Minnesota State Building Code or Minnesota Residential Code.

(a) The limitation on rent increases shall not apply to the amount that a housing service provider can be reimbursed by a government entity under the Housing Support Act, Minn. Stat. § 256I.

(b) The limitation on rent increases shall not apply to changes in the tenant obligation for income-based payments where the renter obligation is established as a share of income.

(c) *New Construction Exemption.* The limitation on rent increases shall not apply to Newly Constructed Residential Rental Properties that were issued their first Building Certificate of Occupancy less than 15 years from the date of notice of a rent increase.

(d) *Exemption for Changes in Occupancy Classification from Non-Residential to Residential.* The limitation on rent increases shall not apply to formerly Non-residential Properties or portions of Non-residential Properties that were issued a new or renewed Building Certificate of Occupancy because of a change in occupancy classification to residential. Such Properties or portions of Properties that have changed occupancy classification from Non-Residential to residential are exempted from the limitation on rent increases for 15 years from the date of the first Building Certificate of Occupancy issued after the change.

Sec. 193A.07 Enforcement, penalties, and prohibitions

(a) Penalties for violation. In addition to any other remedy available at equity or law, failure to comply with the provisions of this Chapter may result in criminal prosecution and/or administrative fines as provided by Sec. 1.05 of the Legislative Code.

(b) Private right of action. Any tenant aggrieved by a landlord's noncompliance with this Chapter may seek equitable relief in any court of competent jurisdiction to the extent permitted by law.

(c) Prohibition of waiver. Any lease provision which waives or purports to waive any right, benefit or entitlement created in this Chapter shall be deemed void and of no lawful force or effect.

Sec 193A.08 Severability. If any of the parts or provisions of this section or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this section, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this section are severable.

Sec 193A.09 Effective date. This section shall become effective May 1, 2022.

SECTION 3

This ordinance will take effect and be in force on January 1, 2023, following its passage, approval, and publication.